



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 9, 1998

Ms. Jennifer D. Soldano
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR98-0644

Dear Ms. Soldano:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113560.

The Texas Department of Transportation (the "department") received two requests for information relating to a specific job posting. You state that you will release the applications and the scoring sheets. You claim that the remaining requested information is excepted from disclosure under section 552.122(b) of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of documents.¹

Section 552.122(b) excepts from disclosure test items developed by a licensing agency or governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated, but does not encompass evaluations of an employee's overall job performance or suitability. Whether information falls within the section 552.122 exception must be determined on a case-by-case basis. Open Records Decision No. 626 (1994) at 6. Traditionally, this office has applied section 552.122 where release of "test items" might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976).

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

In this instance, you seek to withhold the interview questions and answers, as well as the knowledge skill and ability ("KSA") criteria used to grade the applicant in the screening process. You state that you "do not ask to withhold the KSAs, those are listed on the Job Vacancy Notice, but rather . . . ask to withhold the grading criteria for each KSA and the actually [sic] comparison of the applicant to the KSA because the comparison would identify the criteria." You indicate that release of the documents submitted for our review would compromise the department's ability to hire the best-qualified applicants. We have considered your arguments and reviewed the submitted documents. We agree that most of the interview questions and responses, as well as the KSA criteria are "test items," and the department may withhold them under section 552.122(b). However, we do not believe that interview questions and responses 2, 3, and 5 on the "Interview Note Taking Form" test an individual's or group's knowledge or ability in a particular area, but rather, evaluate an employee's overall job performance or suitability. You may not, therefore, withhold from disclosure interview questions and responses 2, 3, and 5 under section 552.122(b).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/gle

Ref.: ID# 113560

Enclosures: Submitted documents

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